UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/042,236 | 01/11/2002 | George M. Halow | A-7709 | 4880 |

7590 08/15/2003

Mitchell B. Wasson, Esq.
HOFFMAN, WASSON & GITLER, PC
Suite 522
2361 Jefferson Davis Highway
Arlington, VA 22202

| EXAMINER |
|---|
| KALINOWSKI, ALEXANDER G |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3626 | |

DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

| Application No. | Applicant(s) |
|---|---|
| 10/042,236 | Halow et al |
| **Examiner** | **Art Unit** |
| Alexander Kalinowski | 3626 |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on *Jun 4, 2003* .

2a) ☒ This action is **FINAL.** 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) *1, 2, 4-15, and 17-23* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1, 2, 4-15, and 17-23* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

## DETAILED ACTION

1. Claims 1-2, 4-15, and 17-23 are presented for examination. Applicant filed a petition to make special under MPEP 708.02. The petition to make special was granted on 7/1/2002. Of claims 1-21 originally filed on 1/11/2002, Applicant filed an amendment on 10/28/2002, canceling claims 3 and 16, amending claims 1 and 13, and adding claims 22 and 23.New grounds of rejection of claims 1-2, 4-15, and 17-23, necessitated by Applicant's amendment, are established in the instant office action as set forth in detail below. Therefore, the instant office action is a final rejection of claims 1-2, 4-15, and 17-23.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claim 1, 2, 6, 7, 9, 10, 13-15, 19 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al., Pat. No. 6,343,271 (hereinafter Peterson) in view of Little et al., Pat. No. 5,359,509 (hereinafter Little) and Kienle, Kenneth, "Clamping Down on Code Creep" (hereinafter Kienle).

As to claim 1, Peterson discloses a system for reviewing medical treatment claims provided by a plurality of practitioners to a plurality of insurance entities for the determination of the appropriateness of the medical treatment claims (i.e. adjudicating medical insurance claims)(see abstract), comprising:

a clearing house for receiving information from the plurality of practitioners regarding claims to be paid by one or more of the plurality of insurance entities (i.e. permits health care providers to electronically prepare insurance claims and submit claims to the claims processing system)(col. 6, lines 64-66 and col. 7, lines 6-9), said clearing house provided with software to determine the appropriateness of each of the claims submitted by each of the plurality of practitioners (i.e. a predefined set of adjudication rules are contained in auto adjudication database and provide criteria by which claims are either approved or denied)(col 9, lines 31-35), said clearing house communicating with the plurality of insurance entities and the plurality of practitioners regarding the appropriateness of each of the claims (i.e. health care provider may use the automated adjudication system to determine whether the claim is to be automatically adjudicated or manually adjudicated ... health care provider may access information regarding the adjudication status of a submitted claim...claims that require manual claims adjudication are transferred to a claims shop 52 or private contractors employed by insurers 54)( col. 6, line 64 - col. 7, line 13 and col. 9, lines 31-45).

Peterson does not explicitly disclose

wherein said software determines the appropriateness of each of the claims based upon whether one of the practitioners has submitted more than one disparate treatment claim for a single treatment period of time on a single day.

However, Little discloses wherein said software determines the appropriateness of each of the claims based upon whether one of the practitioners has submitted more than one disparate treatment claim for a single treatment period of time on a single day (col. 7, lines 10-26). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include said software determines the appropriateness of each of the claims based upon whether one of the practitioners has submitted more than one treatment claim for a single treatment period of time on a single day as disclosed by Little within the Peterson method for the motivation of automatically adjudicating payment requests thereby lowering the costs of health care (col. 3, lines 1-5 and col. 4, lines 45-48).

Peterson and Little do not explicitly disclose

determines the appropriateness of each of the claims based upon whether one of the practitioners has submitted more than one disparate treatment claim for a single block of treatment time on a single day.

However Kienle discloses determines the appropriateness of each of the claims based upon whether one of the practitioners has submitted more than one disparate treatment claim for a single block of treatment time on a single day (i.e. incidental and/or multiple procedures)(page 2, lines 18-40 and page 3, lines 10-16). It would have been obvious to one of ordinary skill in the art

at the time of Applicant's invention to include determines the appropriateness of each of the claims based upon whether one of the practitioners has submitted more than one disparate treatment claim for a single block of treatment time on a single day as disclosed by Kienle within the Peterson and Little combination for the motivation of more easily identify questionable surgical claims and mark them for review (see abstract).

As to claim 2, Peterson discloses the system in accordance with claim 1, wherein said clearing house pays the proper practitioner once said clearing house has determined that a particular claim submitted by that practitioner to said clearing house is appropriate (i.e. a claim that has been automatically adjudicated and approved is submitted to a payment system... funds in an amount equal to payment are transferred from pool to a clearinghouse bank after which funds are transferred to the doctor's account)(col. 9, line 62 - col. 10, line 6).

As to claim 6, Peterson discloses the system in accordance with claim 1, wherein said clearing house is provided with a memory containing a list of treatment codes and a list of diagnostic codes (i.e. claim is compared against a database or another system to determine if diagnosis and treatment are consistent)(col. 11, line 66 - col. 12, line 4).

As to claim 7, Peterson discloses the system in accordance with claim 6, wherein said clearing house determines the appropriateness of each claim based reviewing a treatment code

with respect to a diagnostic code for a particular patient (i.e. claim is compared against a database or another system to determine if diagnosis and treatment are consistent)(col. 11, line 66 - col. 12, line 4) .

As to claim 9, Peterson discloses the system in accordance with claim 2, wherein said clearing house is paid by the appropriate insurance entity when said clearing house pays the proper practitioner (i.e. funds in an amount equal to payment are transferred from pool established by third party insurer to a clearinghouse bank after which funds are transferred to the doctor's account)(col. 9, line 62 - col. 10, line 6).

As to claim 10, Peterson discloses the system in accordance with claim 1, further including a device for entering data provided at each of the practitioner locations (i.e. doctor terminal 230)(Fig. 10).

As to claim 13, Peterson discloses a method of determining the appropriateness of a treatment claim submitted by one of a plurality of practitioners to one of a plurality of insurance entities, the claimed treatment claim covering a treatment prescribed to a patient based upon a particular diagnosis or condition (i.e. adjudicating medical insurance claims ... diagnosis and treatment are embedded in the claim form as the claim is prepared for submission)(see abstract and col. 9, lines 8-16)), comprising the steps of:

establishing a clearing house for examining each of the treatment claims (i.e. claims adjudication system 48)(Fig. 4);

submitting one or more treatment claims to said clearing house (i.e. permits health care providers to electronically prepare insurance claims and submit claims to the claims processing system)(col. 6, lines 64-66 and col. 7, lines 6-9),;

reviewing each of the treatment claims to determine the appropriateness of each of the treatments (i.e. a predefined set of adjudication rules are contained in auto adjudication database and provide criteria by which claims are either approved or denied)(col 9, lines 31-35); and

communicating with the appropriate practitioner and the appropriate insurance entity the appropriateness of each of said treatment claims (i.e. health care provider may use the automated adjudication system to determine whether the claim is to be automatically adjudicated or manually adjudicated ... health care provider may access information regarding the adjudication status of a submitted claim...claims that require manual claims adjudication are transferred to a claims shop 52 or private contractors employed by insurers 54)( col. 6, line 64 - col. 7, line 13 and col. 9, lines 31-45.

Peterson does not explicitly disclose

said reviewing step including determining whether a single practitioner has submitted more than one disparate treatment claim for a single treatment period of time on a single day.

However, Little discloses wherein said software determines the appropriateness of each of the claims based upon whether one of the practitioners has submitted more than one disparate

treatment claim for a single treatment period of time on a single day (col. 7, lines 10-26). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include said reviewing step including determining whether a single practitioner has submitted more than one disparate treatment claim for a single treatment period of time on a single day as disclosed by Little within the Peterson method for the motivation of automatically adjudicating payment requests thereby lowering the costs of health care (col. 3, lines 1-5 and col. 4, lines 45-48). Peterson and Little do not explicitly disclose

determines the appropriateness of each of the claims based upon whether one of the practitioners has submitted more than one disparate treatment claim for a single block of treatment time on a single day.

However Kienle discloses determines the appropriateness of each of the claims based upon whether one of the practitioners has submitted more than one disparate treatment claim for a single block of treatment time on a single day (i.e. incidental and/or multiple procedures)(page 2, lines 18-40 and page 3, lines 10-16). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include determines the appropriateness of each of the claims based upon whether one of the practitioners has submitted more than one disparate treatment claim for a single block of treatment time on a single day as disclosed by Kienle within the Peterson and Little combination for the motivation of more easily identify questionable surgical claims and mark them for review (see abstract).

As to claim 14, Peterson discloses the method in accordance with claim 13, including the step of having said clearing house pay the practitioner if said reviewing step indicates that a particular submitted treatment claim was appropriate (i.e. a claim that has been automatically adjudicated and approved is submitted to a payment system... funds in an amount equal to payment are transferred from pool to a clearinghouse bank after which funds are transferred to the doctor's account)(col. 9, line 62 - col. 10, line 6).

As to claim 15, Peterson discloses the method in accordance with claim 14, including the step of having one of the insurance entities pay said clearing house if said reviewing step indicates that a particular submitted treatment claim was appropriate (i.e. funds in an amount equal to payment are transferred from pool established by third party insurer to a clearinghouse bank after which funds are transferred to the doctor's account)(col. 9, line 62 - col. 10, line 6).

As to claim 19. Peterson discloses the method in accordance with claim 13, wherein said reviewing step includes comparing a treatment code included in said treatment claim with a diagnosis code included in said treatment claim (i.e. claim is compared against a database or another system to determine if diagnosis and treatment are consistent)(col. 11, line 66 - col. 12, line 4).

As to claim 21, Peterson discloses the method in accordance with claim 13, further including the step of obtaining a pre-authorization from one of the insurance entities for the treatment covered by said treatment claim (col. 14, lines 55-56).

As to claims 22 and 23, Peterson, Little, and Kienle do not explicitly disclose wherein the single practitioner has submitted a medical treatment claim for more than one patient for a single period of time on a single day.

However, the Examiner takes official notice that it was well known in the claims fraud detection arts to flag multiple claims submitted for more than one patient at a single period of time on single day from a provider. The motivation was to flag claims that would be difficult if not impossible for a provider to legitimately perform. It would have been obvious to ne of ordinary skill in the art at the time of Applicant's invention to include wherein the single practitioner has submitted a medical treatment claim for more than one patient for a single period of time on a single day within the Peterson and Little method for the motivation above.

4. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson, Little, and Kienle as applied to claim 1 above, and further in view of Pendleton, jr., Pat. No. 6,253,186 (hereinafter Pendleton).

As to claim 4, Peterson does not explicitly disclose the system in accordance with claim 1, wherein said software determines the appropriateness of each of the claims based upon the total number of claim hours submitted by one of the practitioners for a particular duration of time.

However, Pendleton discloses said software determines the appropriateness of each of the claims based upon the total number of claim hours submitted by one of the practitioners for a particular duration of time (i.e. initial step in system determination process involves reading provider record from daily claims 158 ... each record is analyzed ... provider who submits claims for numerous and expensive services. The expert system may identify the provider as potentially fraudulent)(Fig. 12 and col. 9, lines 35-45). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include said software determines the appropriateness of each of the claims based upon the total number of claim hours submitted by one of the practitioners for a particular duration of time as disclosed by Pendleton within the Peterson method for the motivation of processing claims and differentiating between fraudulent and non fraudulent providers of medical services (col. 1, lines 27-34).

As to claim 5, Peterson does not explicitly disclose the system in accordance with claim 4, wherein said particular duration of time is one work day.

However, Pendleton discloses said particular duration of time is one work day (i.e. initial step in system determination process involves reading provider record from daily claims 158 ... each record is analyzed ... provider who submits claims for numerous and expensive services. The

expert system may identify the provider as potentially fraudulent)(Fig. 12 and col. 9, lines 35-45). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include said particular duration of time is one work day as disclosed by Pendleton within the Peterson method for the motivation of processing claims and differentiating between fraudulent and non fraudulent providers of medical services (col. 1, lines 27-34).

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson, Little, and Kienle as applied to claim 6 above, and further in view of Halloway et al., Pat. No. 5,253,164 (hereinafter Halloway).

As to claim 8, Peterson does not explicitly disclose the system in accordance with claim 6, wherein said clearing house determines the appropriateness of each claim based upon a determination that a plurality of said treatment codes are mutually exclusive.

However, Halloway discloses said clearing house determines the appropriateness of each claim based upon a determination that a plurality of said treatment codes are mutually exclusive (i.e. the first rules are utilized for multiple records wherein on of the codes may be eliminated for payment approval purposes ... in rule E1, if one code number ACODE appears in the same list of codes as one or more codes BCODE to CCODE, then ACODE is eliminated and the code number appearing within the range BCODE to CCODE is retained ... by first applying rule designated as E1 and E2, it may be possible to eliminate one or more inappropriate codes from

consideration)(col. 6). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include said clearing house determines the appropriateness of each claim based upon a determination that a plurality of said treatment codes are mutually exclusive as disclosed by Halloway within the Peterson method for the motivation of providing a cost effective automated system for processing and paying only appropriately coded claims (col. 3, lines 6-10).

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson, Little, and Kienle as applied to claim 10 above, and further in view of Moore et al., Pat. No. 5,930,759 (hereinafter Moore).

As to claim 11, Peterson does not explicitly disclose the system in accordance with claim 10, wherein said device includes a bar code reader.

However, Moore discloses said device includes a bar code reader (i.e. barcode reader 22)(Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include said device includes a bar code reader as disclosed by Moore within the Peterson method for the motivation of expediting the filing and processing of health care claims (col. 3, lines 27-34).

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson, Little, and Kienle as applied to claim 10 above, and further in view of Provost et al., Pat. No. 6,341,265 (hereinafter Provost).

8. As to claim 12, Peterson does not explicitly disclose the system in accordance with claim 10, wherein said device includes a keyboard.

However, Provost discloses wherein said device includes a keyboard (col. 7, lines 20-27). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein said device includes a keyboard as disclosed by Provost within the Peterson method for the motivation of enabling a health care provider to enter required information (col. 7, lines 20-27).

9. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson, Little, and Kienle as applied to claim 13 above, and further in view of Pendleton.

As to claim 17, Peterson does not explicitly disclose the method in accordance with claim 13, wherein said reviewing step determines the appropriateness of each treatment claim based upon the total number of claim hours submitted for a particular duration of time.

However, Pendleton discloses said software determines the appropriateness of each of the claims based upon the total number of claim hours submitted by one of the practitioners for a

particular duration of time (i.e. initial step in system determination process involves reading provider record from daily claims 158 ... each record is analyzed ... provider who submits claims for numerous and expensive services. The expert system may identify the provider as potentially fraudulent)(Fig. 12 and col. 9, lines 35-45). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include said software determines the appropriateness of each of the claims based upon the total number of claim hours submitted by one of the practitioners for a particular duration of time as disclosed by Pendleton within the Peterson method for the motivation of processing claims and differentiating between fraudulent and non fraudulent providers of medical services (col. 1, lines 27-34).

As to claim 18, Peterson does not explicitly disclose the method in accordance with claim 17, wherein said duration of time is a work day.

However, Pendleton discloses said particular duration of time is one work day (i.e. initial step in system determination process involves reading provider record from daily claims 158 ... each record is analyzed ... provider who submits claims for numerous and expensive services. The expert system may identify the provider as potentially fraudulent)(Fig. 12 and col. 9, lines 35-45). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include said particular duration of time is one work day as disclosed by Pendleton within the Peterson method for the motivation of processing claims and differentiating between fraudulent and non fraudulent providers of medical services (col. 1, lines 27-34).

10. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson, Little, and Kienle as applied to claim 13 above, and further in view of Halloway.

As to claim 20, Peterson does not explicitly disclose the method in accordance with claim 13, wherein said reviewing step includes comparing more than one treatment code included in said treatment claim with one another.

However, Halloway discloses said reviewing step includes comparing more than one treatment code included in said treatment claim with one another (i.e. the first rules are utilized for multiple records wherein on of the codes may be eliminated for payment approval purposes ... in rule E1, if one code number ACODE appears in the same list of codes as one or more codes BCODE to CCODE, then ACODE is eliminated and the code number appearing within the range BCODE to CCODE is retained ... by first applying rule designated as E1 and E2, it may be possible to eliminate one or more inappropriate codes from consideration)(col. 6). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include said reviewing step includes comparing more than one treatment code included in said treatment claim with one another as disclosed by Halloway within the Peterson method for the motivation of providing a cost effective automated system for processing and paying only appropriately coded claims (col. 3, lines 6-10).

***Response to Arguments***

11. Applicant's arguments with respect to claims 1-2, 4-15, and 17-23 have been considered but are moot in view of the new ground(s) of rejection. Applicant added a new limitation to the independent claims 1 and 13 that was not claimed in the previously pending claims. The newly claimed limitation necessitated a new search for prior art by the Examiner. New grounds of rejection based on 35 USC 103 incorporating newly found prior art were used to reject the independent claims as set forth in detail above. The Examiner will address arguments to claims where the grounds of rejection of the claims was maintained and the limitations were unchanged.

12. As to claims 4 and 5, Applicant argues that the prior art does not disclose "a system in which the appropriateness of the each of the claims based upon the total number of claim hours, such as one work day are examined". The Examiner disagrees. Pendleton clearly shows a system for detecting claims fraud where the claims submitted from a provider are analyzed based on a daily claims analysis (i.e. unit 158, neural network daily claims analysis)(see Fig 12). Furthermore, Pendleton discloses identifying as potentially fraudulent a provider who submits numerous and expensive services from the provider record provided by the network daily claims analysis (see col. 9, lines 35-45). Pendleton at least infers that the provider is claiming too many claim hours during the course of the day of the provider claims numerous and expensive services. Therefore, Applicant's arguments directed to claims 4 and 5 are non persuasive.

13. As to claims 17 and 18, Applicant argues that the claims are similar to claims 4 and 5 and are patentable for the same reasons as claims 4 and 5. Since the Examiner found Applicant's arguments directed to claims 4 and 5 to be nonpersuasive as explained above, the Examiner finds Applicant's arguments to claims 17 and 18 to be nonpersuasive for the same reasons.

14. As to claims 8, 11, 12, and 20, Applicant argued that since independent claims 1 and 13 are allowable over the combination of Peterson and Little, claims 8, 11, 12 and 20 are allowable based on their dependency to claims 1 and 13. However, since the Examiner found Applicant's arguments to be non persuasive with respect to claims 1 and 13 as explained above, the Examiner finds Applicant's arguments directed to claims 8, 10, 12, and 20 to be non persuasive for the same reasons.

15. As to claims 22 and 23, Applicant argues that Examiner's use of official notice would not have been obvious in light of the prior art, namely the Peterson and Little references .The Examiner disagrees. The Examiner notes that the Examiner provided a statement indicating motivation to combine the Examiner's use of official notice for the feature of "determining whether a single practitioner has submitted more than one claim for different patients at a single treatment block of time". Furthermore, in light of the Peterson and Little references of disclosing systems for reducing medical fraud as and saving the consumer and government large amounts of money as admitted by Applicant (Paper No. 12, Page 7), claims directed to serving different patients at the same time would at least need to be flagged for the motivation cited by the Examiner. The motivation would have been to prevent fraudulent claims that would have been

difficult to perform by a single practitioner. This motivation stems from the teachings of Peterson and Little that disclose systems for reducing medical fraud as and saving the consumer and government large amounts of money. Therefore, Applicant's argument directed to the nonobviouseness of Examiner's use of official notice is nonpersuasive.

Applicant further argues even if the Examiner's use of official notice was obvious, claims 22 and 23 are allowable based on their dependency to claims 1 and 13. However, since the Examiner found Applicant's arguments directed to claims 1 and 13 to be non persuasive as explained above, the Examiner finds Applicant's arguments directed to claims 22 and 23 to be non persuasive for the same reasons.

***Conclusion***

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Kalinowski, whose telephone number is (703) 305-2398. The examiner can normally be reached on Monday to Thursday from 6:30 AM to 4:00 PM. In addition, the examiner can be reached on alternate Fridays.

If any attempt to reached the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached on (703) 305-9588. The fax telephone number for this group is (703) 305-7687 (for official communications including After Final communications labeled "Box AF").

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th Floor, receptionist.

Alexander Kalinowski

Patent Examiner

Art Unit 3626

August 11, 2003